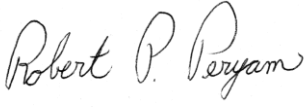


# MONROE COUNTY SHERIFF'S OFFICE

## General Order

<b>CHAPTER:</b> 20		<b>TITLE:</b> Complaint Investigations
<b>EFFECTIVE DATE:</b> January 1, 2010	<b>NO. PAGES:</b> 6	<b>AMENDED:</b> May 23, 2011
<b>REFERENCE:</b> CALEA 52 CFA 27.01 (c); 27.06		<b>RESCINDS:</b> Chapter 20 Internal Affairs
 <b>Sheriff of Monroe County</b>		

### PURPOSE

The purpose of this directive is to establish guidelines for the handling of complaints against employees, the imposition of corrective action or discipline, and the administration and operational procedures for the Internal Affairs Division.

### DISCUSSION

This directive shall apply to all Sheriff's employees. For the purposes of this chapter "employee" includes reserve and auxiliary deputies. It is the policy of the Sheriff that all allegations of employee misconduct are appropriately investigated and promptly adjudicated. This includes complaints received from anonymous sources. [CALEA 52.1.1]

The Internal Affairs Division shall record, register, and control the investigation of complaints against employees; shall supervise and monitor the handling of alleged misconduct; shall maintain the confidentiality of the Internal Affairs investigations and records as law permits and shall keep such records in a secured area at 5525 College Road (Internal Affairs), Key West, Florida.  
[CALEA 26.1.8, 52.1.2] [CFA 27.01(C).

When applicable, the procedure shall be in compliance with Section 112.552 and 112.553, Florida Statutes. The Internal Affairs Division is supervised by a Command Deputy Sheriff who is supervised by the Undersheriff and has the

authority to report directly to the Sheriff on Internal Affairs matters. [CALEA 52.1.3] All or a part of this procedure may be superseded by state law and/or any collective bargaining agreement entered into between the Sheriff and a recognized collective bargaining unit.

It is the policy of the Sheriff that discipline should be characterized as corrective rather than punitive, and that disciplinary actions are utilized as an element of an overall program to educate the employees of the Office and to promote proper conduct. However, some misconduct is not correctable through discipline. Certain acts may immediately render an employee unsuitable for continued employment. Not all misconduct requires discipline. In some cases, non-disciplinary action may be more appropriate. Supervisors are expected to enforce the disciplinary process.

Although internal consistency in administering discipline is desirable, numerous factors should be considered in determining the appropriate level of discipline to be assessed. Some of the factors involved include, but are not limited to length of service, time intervals between offenses, the effectiveness of prior corrective or disciplinary actions, willingness to improve, overall work performance, job attitude, and corrective or disciplinary actions previously administered to comparable employees for similar offenses. A repetition of the same offense or other serious offense indicates that more severe measures should be administered.

Generally, the action taken should be corrective if the supervisor can reasonably anticipate that the corrective steps will be effective. The steps of progressive corrective action would normally be:

1. Counseling/retraining
2. Written reprimand
3. Suspension
4. Demotion
5. Termination

Some misconduct cannot be corrected using corrective action. This is generally misconduct the employee should have reasonably known was unacceptable, including; association with criminals, drug usage, dishonesty, thievery, violence, insubordination, and criminal behavior. In addition to disciplinary action, an employee may be subject to the loss of equipment, such as a take home car, uniforms, weapon, etc.

Nothing contained herein shall limit the right, power, and authority of the Sheriff to take whatever action is deemed appropriate under given circumstances. It is further provided that certain offenses are of such serious nature that immediate withdrawal of appointment is applicable on the first offense.

## **POLICY AND PROCEDURE**

### **Receipt of Complaints**

All complaints against the Office or its employees shall be investigated. Complaints may be written or verbal and may be anonymous. Complaint processing will follow the guidelines outlined in the ***Complaint Investigation Procedures Manual*** located in Chapter 20A Complaint Investigations Attachments.

Employees receiving information of misconduct of any employee should immediately contact a supervisor or Internal Affairs to accept the complaint. Employees will not direct a complainant to call a supervisor.

All Complaints shall receive a case number and the Internal Affairs Division shall maintain a record of all complaints received against the agency or employees. Records of all complaints shall be maintained in a secure section of the MCSO computer system. Any paper records

shall be maintained in a file room within the Internal Affairs office that is not readily accessible to persons other than Internal Affairs staff. The door to the file room shall be locked when staff is absent from the office. [CALEA 26.1.8, 52.1.2]

At a minimum, Records will be retained/destroyed as per Florida Records Retention Schedule.  
(Revised 5/19/11)

### **Notification to the Sheriff**

The Command Deputy Sheriff of Internal Affairs shall immediately notify the Sheriff in all instances of allegations of criminal misconduct. The Sheriff will be kept informed of all other complaints during regular briefings. [CALEA 52.2.2]

### **Notification to Complainant**

In the event of a complaint filed against an employee of the Office the investigator shall send a letter or email and/or make a documented phone call to the complainant advising of the agency's receipt of the complaint and the name of the investigator.

The investigator shall at least every thirty days inform the complainant of the status of the investigation.

At the conclusion of the investigation, the investigator shall send a final letter to the complainant advising of the disposition of the matter.[CALEA 52.2.4]

### **Notification to Employee Under Investigation**

The employee under investigation shall be notified of the investigation by being provided a written statement of the allegations, the name of the complainant and his/her rights and responsibilities relative to the investigation. Such notice shall be provided in a timely manner but shall not impede the investigation. [CALEA 52.2.5]

### **Types of Complaints Investigated by Internal Affairs:**

[CALEA 52.2.1 b]

Allegations of criminal misconduct and other policy or procedure violations as determined by the Sheriff. When deemed appropriate by the Sheriff, complaints of criminal misconduct may be submitted to the criminal investigations division or an outside law enforcement agency for investigation.

All complaints of serious negligence or misconduct in the handling of evidence by any members of the Office or any of its contractors shall be investigated by the Internal Affairs Division of the Monroe County Sheriff's Office. (Revised 7/6/10)

### **Types of Complaints Investigated by Supervisors:**

[CALEA 52.2.1 a]

Allegations of violations of the General Orders, such as insubordination offenses, neglect of duty offenses, improper conduct offenses, etc.

### **Completion of Investigations**

All Investigations shall be completed within 30 days of receipt of the complaint. Should an extension of time be necessary to complete the investigation, the investigator shall inform his/her supervisor and shall make a written request (email will suffice) to the Office of Internal Affairs for an extension, explaining the reasons for the extension. The Inspector General or designee or Undersheriff is the only person authorized to grant the extension. Any such extensions shall be noted in the investigative file and the subject employee shall be provided with an approved copy of the request. Any extensions granted extending the investigation beyond 180 days will only be granted in accordance with F.S 112.532(6), i.e., the period is tolled for a statutorily enumerated reason. [CALEA 52.2.3] (Revised 7/6/10)

### **Investigation Procedures**

- All complaint investigations should follow the investigative protocols in the *Complaint Investigation Procedures Manual*.

- Should any of the above procedures be changed or modified by a Collective Bargaining Agreement, the terms of the Bargaining Agreement shall prevail and apply to the members of that collective bargaining unit.

### **Investigation Determination**

- All investigations into allegations of misconduct, whether investigated by a Supervisor or Internal Affairs, shall result in a conclusion of fact. {CALEA 52.2.8}
- The findings of fact shall be one of the following determinations:
  - **Exonerated:** Incident occurred, but the employee's actions were lawful, proper and consistent with rules, regulations, policy or state laws.
  - **Unfounded:** Allegation is false or not factual.
  - **Not Sustained:** Insufficient facts either to prove or disprove the allegation.
  - **Sustained:** The allegation is found to be substantially true. Generally speaking, the incident occurred and the specifically cited rule(s), regulation(s) or other general or special order(s) were violated by the employee.

### **Corrective Action**

Upon completion of the investigation and a finding of fact the following actions may be taken:

- **Corrective Non-Disciplinary Actions**
  - **Letter of Counseling** - The purpose of a letter of counseling is to allow the Supervisor to bring to the employee's attention the need to improve his/her performance, work habits, behavior or attitude and to serve as a notice against further repetition of the unsatisfactory performance or conduct. The Supervisor should utilize the occasion to identify and define the area needing improvement and to inform the

employee of how such improvement can be realistically achieved and when it can be expected. A letter of counseling is a corrective measure and is not considered to be disciplinary action.

- **Remedial Training** – If the Supervisor has, through counseling, defined an area needing improvement, the Supervisor may provide qualified instruction to assist employees in overcoming the noted deficiency. This instruction must be appropriate and not detract excessively from other supervisor capacities. The employee may be required to successfully complete a training program. The program shall be designed to fit specific job requirements or individual needs. When possible, the Sheriff's in-service training program should be used. Assignment of the training and completion of training shall be documented by memorandum. (Remedial Training may also be required in disciplinary actions).
- **Administrative Suspension/relief from duty** – [CALEA 52.2.7] If the supervisor determines that the needs of the employee and/or the best interests of the agency require a temporary relief from duty, the supervisor will notify the employee's division command. An administrative suspension may be affected in such circumstances by the employee's division command, or the duty commanding officer, and shall continue until otherwise ordered by the sheriff. An administrative suspension may be implemented prior to the completion of an investigation. An administrative suspension under these circumstances is not considered to be discipline.
  - Administrative suspension following use of deadly force - In every instance in which a deputy uses deadly force or takes action which results in death or great bodily harm to another person, the deputy will be immediately relieved of normal duties in order that the personal and emotional needs of the deputy may

be addressed and all facts surrounding the incident verified.

- **Corrective Disciplinary Actions**

- **Written Reprimand** - In situations in which counseling and/or remedial training has not resulted in the expected improvement, or in which an employee commits a more serious offense, a written reprimand should be given to the employee. This shall include a complete description of the incident(s) of misconduct, and refer to specific dates, times, locations, personnel involved, and rules violated.
- **Disciplinary Suspension** - In the event offenses are continued or repeated by an employee who has already received a letter of counseling / retraining or written reprimand, or if the nature of the offense is serious, an employee may be placed on disciplinary suspension without pay for a period of time, or be subjected to loss of accrued vacation or compensatory leave.
- **Disciplinary Demotion** - In certain cases demotion may be used when the employee demonstrates an inability to function at his/her rank or position.
- **Disciplinary Withdrawal of Appointment/Termination** - In cases of serious conduct violations the employee's appointment may be withdrawn and the employee may be terminated.

- **Authority to Discipline**

The Sheriff or his designee shall be briefed and must concur with the recommended discipline prior to its imposition except in emergency or exigent circumstances. (Revised 5/19/11)

The following authorities to issue discipline shall apply:

- Letter of reprimand: *Lieutenant or above.*
- Suspension up to five work shifts: *Captain, Director or above.*

- Suspension over five work shifts, Recommend Demotion and/or Termination: *Bureau Chief or above.*
- Demotion and/or Termination: *Sheriff or designee.*  
(Revised 5/23/11)
- **Notice of Disciplinary Action**
  - Upon completion of an investigation, the finder of fact shall make a written recommendation of corrective and/or disciplinary action.
  - The subject employee shall be notified of the recommended action and be provided a copy of the complete investigation. [CFA 27.06]
  - Prior to the imposition of the action the employee shall be provided the opportunity to address the findings and the recommended corrective and/or disciplinary action.
  - The final corrective/disciplinary action shall be imposed after due consideration of the subject employee's response.
- **Investigation Reports**
  - Internal Affairs investigations shall be documented on forms established within the division.
  - All other investigations shall be documented on a Supervisory Review Form (See Complaint Investigations Procedures Manual).
- **Employee's Responsibility During Investigation**
  - The employee shall follow all directives from superiors and/or Internal Affairs during the investigative process.
    - During any internal investigation, an employee may be reassigned or relieved from duty due to unfitness for duty, pending disposition of the investigation, or whenever it would be in the public interest not to have the employee on active duty. Such administrative leave may be with or without pay, depending on the circumstances and seriousness of the allegations, until final disposition is made.
  - During any internal investigation, an employee may be subject to medical or laboratory examinations; may be required to participate in a line up; may be photographed; and may be required to submit financial records when such are material to the particular investigation at hand. [CALEA 52.2.6]
  - Employees have a continuing duty to be truthful during the investigation. Untruthfulness during the employee's sworn interview may subject the employee to prosecution for perjury (Garrity does not protect against perjury).
- **Discipline Implementation**
  - All imposed disciplines shall be implemented and completed immediately following the discipline being imposed. If for any reason it cannot be completed immediately, the date for implementation must be set and approved by the imposing supervisor.
  - Documentation must be provided to Internal Affairs by the employee's commander confirming the discipline has been completed immediately following its imposition.
  - Should the investigation result in the employee's dismissal, the Human Resources Division will notify the Division of Employee Benefits for Monroe County. They in turn will notify the employee of any fringe and retirement benefits to which she/he may be entitled after dismissal.
  - Should the investigation result in the employee's dismissal, she/he shall be provided a memorandum indicating the reason(s) for dismissal, effective

date of dismissal, and a statement related to the employee's right to submit information to their personnel file to refute or explain the reasons for the dismissal.

- **Appeal Process**

- **Collective Bargaining Unit Employees** The appeal process shall be as outlined in the relevant collective bargaining unit contract.

- **Non collective bargaining unit Employees**

- Pursuant to Monroe County Sheriff's Office Career Service Bill (Florida Law 97-345), any Sheriff's office employee who is a member of "classified service" not covered by a collective bargaining agreement, regardless of union membership, may appeal discipline that is suspension without pay for forty hours or more, demotion, or withdrawal of appointment, to the Disciplinary Review Board. For information concerning employee's rights and responsibilities, when requesting a disciplinary review board, see General Orders Chapter 24, Career Service Provisions.

- With discipline that does not fall under the Career Service Bill, employees who have successfully completed their probationary period may appeal through the appellate process delineated in General Orders Chapter 14.

- **Reporting Sustained Allegations to Florida Criminal Justice Standards and Training**

- In accordance with the Department of Law Enforcement, Criminal Justice Standards and Training Commission, Chapter 11B-27.0011(5) all sustained allegations of moral misconduct as defined in 11B-25.0011(4), where dismissal does not occur will be reported to the Standards and Training

Commission within forty-five (45) days from the date the allegation was sustained.

- Any disciplinary action that results in dismissal will be reported by the Human Resources Section as normal notice of separation from the Office.

- The Command Deputy Sheriff of the Internal Affairs Division shall ensure that the Florida Department of Law Enforcement Internal Investigation Report form is completed as required by Section 943.1395 (5), of the Florida Statutes.

- **Annual Statistical Summaries** - The Office of Internal Affairs shall compile annual statistical summaries, including offenses investigated, for dissemination to the public and to employees. [CALEA 52.1.5]